

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

EARL INGELS,

Petitioner, : Case No. 1:21-cv-561

- vs -

District Judge Matthew W. McFarland
Magistrate Judge Michael R. Merz

WARDEN, North Central
Correctional Institution,

:
Respondent.

**DECISION AND ORDER DENYING WITHOUT PREJUDICE
PETITIONER'S MOTION FOR JUDICIAL NOTICE**

This is a habeas corpus action brought *pro se* by Petitioner Earl Ingels to obtain relief from his convictions in the Hamilton County Court of Common Pleas on charges of kidnapping and gross sexual imposition. The Magistrate Judge reference in the case has recently been transferred to the undersigned to help balance the Magistrate Judge workload in this District (Transfer Order, ECF No. 17).

Upon docket review after transfer, the undersigned notes the pendency of Petitioner's Motion for Judicial Notice. He requests the Court to take judicial notice

Documents of proof and fact, from the States files and records. This evidence and files are articles held by the State. They were retrieved from the Hamilton County Sheriffs Evidence by a Third Party under a Freedom of Information Act request, after the Defendants trial and conviction. Never previously reviewed by any Court *Moonev v. Holohan*. 294 U.S. 103 him, then such acts or omissions of the prosecuting attorney may be regarded as resulting in a denial of due

process of law." And, "conversely," the Attorney General contends that "it is only where an act or omission operates so as to deprive a defendant of notice or so as to deprive him of an opportunity to present such evidence as he has, that it can be said that due process of law has been denied." The petitioner argues that the Court should take judicial notice of documents the resentencing judge claims that she had reviewed prior to resentencing Petitioner, (see attached copies of facts and information and Affidavit from the Courts Gallery contesting this claimed review)."

(Motion, ECF No. 15, PageID 1329).

The Court notes the following deficiencies in the Motion for Judicial Notice:

1. Despite Petitioner's reference to documents as being attached, there are no attachments at all.
2. Petitioner represents the documents "were retrieved from the Hamilton County Sheriff's Evidence by a Third Party under a Freedom of Information Act request." (ECF No. 145, PageID 1329). There is no documented paper trail showing the origins of these documents which is necessary to verify their authenticity.
3. Petitioner asserts the sentencing judge claimed she had reviewed these documents, but Petitioner gives no indication where that claim was made or place where this Court can verify that claim. If the resentencing judge made that claim on the record in this case, Petitioner should give the record reference by stating the document or ECF No. and the PageID, both of which are shown on the top of any filed document.

Given these deficiencies, the Motion for Judicial Notice is DENIED without prejudice to its renewal in a motion which cures these deficiencies.

June 13, 2022.

s/ Michael R. Merz
United States Magistrate Judge